

domain name confusingly similar to SOIL SOLUTIONS, Soil Solutions, Inc. or <soilsolutionsinc.net>, including, but not limited to, any designation containing the elements SOIL and SOLUTION, any variants thereof, or any elements visually, aurally or phonetically similar thereto, in connection with the offering or provision of any soil or foundation-related construction services, including, but not limited to, soil remediation or handling of contaminated or non-contaminated soil, or maintaining an Internet website in connection therewith, and it is further

ORDERED that within ten (10) days from the date hereof Defendants shall identify to Plaintiff's counsel all work performed under the mark SOIL SOLUTION or the trade names Soil Solution Inc. or Soilsolution Industries Inc, the contractor and/or property owner for whom such work was performed and the compensation received therefor, and to be received therefor; and it is further

ORDERED that defendants shall forthwith cease operation of its Internet website located at www.soilsolutioninc.com and immediately destroy all advertising and promotional materials containing the mark SOIL SOLUTION, the trade names Soil Solution Inc. or Soilsolution Industries Inc. or any variants thereof, and all plates, dies, materials or electronic files from which such materials may be reproduced; and it is further

ORDERED that, pursuant to Lanham Act § 34, 15 U.S.C. § 1116, defendants are directed to file with the Court and serve on the plaintiff within thirty (30) days after the service on the defendants of this Injunction and Order a report in writing under oath setting forth in detail the manner and form in which the defendants have complied with this Injunction and Order; and it is further

ORDERED that Defendant Soilsolution Industries Inc.'s New York State service mark registration of the mark SOILsolution, Reg. No. S20937, shall be cancelled on the ground that it infringes the Plaintiff's rights in the service mark SOIL SOLUTIONS and the Secretary of State of the State of New York is hereby directed to cancel from the register said registration and the certificate issued therefor, pursuant to New York General Business Law § 360-h; and it is further

ORDERED that trial of plaintiff's claims for damages in this action is hereby scheduled for December 7, 2009 at 10:00 a.m.; and it is further

ORDERED that, in view of the foregoing determinations Defendants' motion to dismiss or for summary judgment, dated October 7, 2009, and Plaintiff's cross-motion for partial summary judgment, dated October 21, 2009, are denied as moot.

Dated: Brooklyn, New York
November , 2009 at m.

U.S.D.J.

Approved as to form:

CARDILLO LAW PC

TANNENBAUM HELPERN SYRACUSE
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